

**REMARKS**

1. **RESTRICTION**

The Examiner required restriction of originally-filed Claims 1-16 into 3 groups,<sup>1</sup> as follows:

- Group I: Claims 1-2, 4-10 and 14-16, “drawn to a DNA encoding a protein having elicitor binding activity, a vector and a plant/seed comprising said DNA, and a plant transformation method,”
- Group II: Claim 3, “drawn to a protein encoded by the DNA of claim 1,” and
- Group III: Claims 11-13, drawn to a pharmaceutical agent comprising the DNA of claim 1.

2. **ELECTION**

Applicants elect **Group I** (i.e., Claims 1-2, 4-10 and 14-16), without traverse. Claims 3 and 11-13 are hereby withdrawn (without prejudice) from examination.

3. **REQUEST REJOINDER OF CLAIMS TO METHOD OF MAKING AND/OR METHOD OF USING IN VIEW OF ELECTION OF A PRODUCT CLAIM**

Applicants respectfully request rejoinder and consideration, upon allowance of the elected product claims, of new and/or non-elected claims that are directed to a process of making and/or using the elected product and that depend from or require all the limitations of allowable product

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<sup>1</sup> Office Action, page 2.

claims, as provided by MPEP § 821.04(b),<sup>2</sup> including any claims that may have been previously withdrawn from consideration.

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<sup>2</sup> Where the “restriction was required between a product and a process of making and/or using the product, and the product invention was elected and subsequently found allowable, all claims to a non-elected process invention must depend from or otherwise require all the limitations of an allowable claims for the claims directed to that process invention to be eligible for rejoinder.” (Emphasis in original) MPEP § 821.04(b).